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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 GARRY L. MCCUE,  
12 Plaintiff,

Case No. 15cv1092 BTM(KSC)

**ORDER DISMISSING FIRST  
AMENDED COMPLAINT**

13  
14 v.

15 SHAWN KHORRAMI, BAHAR  
16 DEJBAN, LAW OFFICES OF  
17 SHAWN KHORRAMI.  
Defendants.

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19 On May 14, 2015, Plaintiff Garry L. McCue ("Plaintiff") filed a Complaint  
20 and Motion for Leave to Proceed *in forma pauperis* ("IFP Motion"). In an order  
21 filed on May 20, 2015, the Court granted Plaintiff's IFP Motion but dismissed  
22 the Complaint for lack of subject matter jurisdiction. The Court granted Plaintiff  
23 leave to file an amended complaint. On May 29, 2015, Plaintiff filed a First  
24 Amended Complaint ("FAC").

25 The Court is under a continuing duty to dismiss an IFP case whenever  
26 the Court determines that the action "fails to state a claim on which relief may  
27 be granted." 28 U.S.C. § 1915(e)(2)(B)(ii). Under Federal Rule of Civil  
28 Procedure 8(a)(2), a well pled complaint must contain "a short and plain

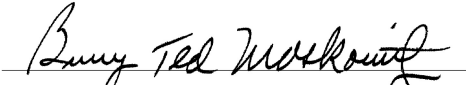
1 statement of the claim showing that the pleader is entitled to relief.” Although  
2 detailed factual allegations are not required, factual allegations “must be  
3 enough to raise a right to relief above the speculative level.” Bell Atlantic v.  
4 Twombly, 550 U.S. 544, 555 (2007). “A plaintiff’s obligation to prove the  
5 ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and  
6 conclusions, and a formulaic recitation of the elements of a cause of action will  
7 not do.” Id. “[W]here the well-pleaded facts do not permit the court to infer  
8 more than the mere possibility of misconduct, the complaint has alleged - but  
9 it has not show[n] that the pleader is entitled to relief.” Ashcroft v. Iqbal, 565  
10 U.S. 662, 679 (2009). Only a complaint that states a plausible claim for relief  
11 will survive a motion to dismiss. Id.

12 The Court has reviewed the FAC and dismisses it for failure to state a  
13 claim on which relief can be granted. While Plaintiff attempts to invoke the  
14 Court’s original jurisdiction by citing to 42 U.S.C. § 2000d, the FAC fails to  
15 plead comprehensible facts sufficient to support a discrimination claim against  
16 any of the Defendants. The FAC is comprised of a cover page listing various  
17 statutes and chronicling communications from Plaintiff’s medical doctors and  
18 former attorneys (Doc. 4.) Neither the FAC’s sparse allegations nor any of the  
19 appended documents support a claim of discrimination based on Plaintiff’s age,  
20 race or color.

21 For these reasons, Plaintiff’s FAC is **DISMISSED** with leave to file a  
22 second amended complaint on or before July 3, 2015.

23 **IT IS SO ORDERED.**

24 DATED: June 12, 2015

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27 BARRY TED MOSKOWITZ, Chief Judge  
28 United States District Court